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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,489	04/15/2004	Michael Borella	79804	8572
22242 7590 10/09/2007 FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			EXAMINER HERRERA, DIEGO D	
			ART UNIT 2617	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/825,489

Applicant(s)

BORELLA, MICHAEL

Examiner

Diego Herrera

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nose (US 20050059413), and in view of Griffin (US 20070032194 A1).

Regarding claim 1. Nose discloses a method to facilitate presence-related updates (abstract, paragraph [0009], [0021], [0023], Nose teaches updates related to presence), comprising:

- detecting when a communication unit becomes active notwithstanding whether the communication unit self-initiates a network presence update (paragraph [0008], Griffin teaches detecting means for communication and presence update);
- automatically sourcing a network presence update message on behalf of the

communication unit from an entity other than the communication unit (paragraph [0037], Nose teaches automatically include priority information also position information which determined if priority information is available), however, Nose does not teach on behalf of an entity other than the communication unit, nevertheless, Griffin teaches the limitation of sending and receiving information through a short-range transceiver through mobile device about updates (fig. 2, paragraph [0019]-[0023], Griffin teaches predetermine area for communication with short range transceiver). Therefore, one skilled in the art at the time the invention was made to specifically include sourcing presence update message through a communication device other than the targeted device for reasons of proximity to sensitive areas such as quiet zones.

Regarding claim 15. a system to facilitate maintaining at least relatively current presence information at a mobile communication unit, comprising:

- a wireless communication interface having a two-way wireless link with the mobile communication unit at least from time to time (paragraph [0021], Nose teaches routers and mobile devices in communication, therefore, the mobile could be in contact with wireless communication interface in the area);
- a presence detector that is operably coupled to the wireless communication interface and having a mobile communication unit presence-detected output that provides a presence-detected output signal regardless of whether the mobile communication unit has requested an update of presence information (griffin, abstract, fig. 1, 2, paragraph [0013], [0020]);

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- However, Zmudzinski et al. doesn't specifically disclose a presence server, nevertheless, the examiner takes official notice that presence servers are well known in the art, it is also noted in the background of the applicants specification;

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use presence servers for the purposes of offering various services and features.

- a presence information update requester that is operably coupled to the mobile communication unit presence-detected output of the presence detector and having a mobile communication unit presence information request output operably coupled to the presence server (fig. 1, 2, abstract, paragraph [0028]-[0030], nose teaches presence update coupled to presence server).

Regarding claim 25. A method comprising:

at a Packet Data Serving Node (PDSN) (fig. 2, 80, paragraph [0020], griffin teaches core network teaches a packet data serving node for cdma2000 networks):

- receiving an indication that a communication unit has become active, which indication does not indicate that the communication unit has also requested an update of presence information (paragraph [0021], griffin teaches presence information and communication of it);

- automatically sourcing a message to request that an update of presence information as corresponds to the communication unit be transmitted to the communication unit (paragraph [0037], Nose teaches automatically include priority information also position

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information which determined if priority information is available), however, Nose does not teach on behalf of an entity other than the communication unit, nevertheless, Griffin teaches the limitation of sending and receiving information through a short-range transceiver through mobile device about updates (fig. 2, paragraph [0019]-[0023], Griffin teaches predetermine area for communication with short range transceiver). Therefore, one skilled in the art at the time the invention was made to specifically include sourcing presence update message through a communication device other than the targeted device for reasons of proximity to sensitive areas such as quiet zones.

Regarding claim 29. A method comprising:

at a network access server (abstract, fig. 1, 180, 150, 120, 170, nose shows access server):

- receiving an indication that a communication unit's presence status has changed, which indication does not indicate that the communication unit has also requested an update of presence information (paragraph [0023]-[0025], [0033]-[0035], nose teaches update presence information to communication presences status has changed);
- automatically sourcing a message to request that an update of presence information as corresponds to the communication unit be transmitted to the communication unit (paragraph [0009], nose).

Consider claim 2. The method of claim 1 wherein detecting when a communication unit becomes active further comprises detecting when a wireless communication unit

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becomes active (paragraph [0009], [0021], Nose teaches updates related to presence).

Consider claim 3. The method of claim 2 wherein detecting when a wireless communication unit becomes active further comprises detecting, via a Radio Access Network (RAN)(fig. 2, paragraph [0019], [0021], griffin teaches wireless network comprises a radio access network), when the wireless communication unit becomes active (this is well known in the art that the RAN will detect mobile device in its area).

Consider claim 4. The method of claim 1 wherein automatically sourcing a network presence update message on behalf of the communication unit from other than the communication unit further (paragraph [0023], [0037], Nose teaches automatically include priority information also position information which determined if priority information is available) comprises providing the network presence update message to a presence server (paragraph [0019]-[0021], Griffin teaches presence update message).

Consider claim 5. The method of claim 4 wherein automatically sourcing a network presence update message on behalf of the communication unit from other than the communication unit further comprises automatically sourcing the network presence update message from a Packet Data Serving Node (PDSN) (fig. 2, 80, paragraph [0020], griffin teaches core network teaches a packet data serving node for cdma2000

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networks).

Consider claim 6. The method of claim 4 wherein automatically sourcing a network presence update message on behalf of the communication unit from other than the communication unit further comprises automatically sourcing the network presence update message from a network access server (fig. 2, paragraph [0019]-[0023], Griffin teaches predetermine area for communication with short range transceiver).

consider claim 7. The method of claim 1 and further comprising:

in response to the network presence update message automatically updating the communication unit with respect to at least some network presence information (paragraph [0023]-[0024], Nose teaches presence server).

Consider claim 8. The method of claim 7 wherein automatically updating the communication unit with respect to at least some network presence information further comprises sourcing the at least some network presence information from a presence server (paragraph [0023]-[0024], Nose teaches presence server).

Consider claim 9. The method of claim 7 wherein automatically updating the communication unit with respect to at least some network presence information further comprises automatically updating the communication unit with respect to at least some network presence information comprising at least one item of presence information for a



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second, different communication unit (paragraph [0023]-[0024], Nose teaches presence server).

Consider claim 10. The method of 1 and further comprising:

- when the communication unit does self-initiate a network presence update, automatically updating the communication unit with respect to at least some network presence information (Nose, abstract, fig. 2-3; paragraph [0024]).

Consider claim 11. The method of claim 1 and further comprising:

- automatically buffering network presence information updates as correspond to the communication unit to provide buffered updated presence information (abstract, fig. 1, 2, 3, 5, paragraph [0009], [0021], [0034], [0037]);
- automatically updating the communication unit with respect to the buffered updated presence information (abstract, paragraph [0009], [0021], [0023], Nose teaches updates related to presence).

Consider claim 12. The method of claim 11 wherein automatically updating the communication unit with respect to the buffered updated presence information further comprises automatically updating the communication unit with respect to the buffered updated presence information when at least a predetermined number of the network presence information updates have been so buffered (paragraph [0023]-[0024], Nose teaches presence server; abstract, paragraph [0009], [0021], [0023], Nose teaches

updates related to presence).

Consider claim 13. The method of claim 11 wherein automatically updating the communication unit with respect to the buffered updated presence information further comprises automatically updating the communication unit with respect to the buffered updated presence information when at least one item of the buffered updated presence information has been buffered for at least a predetermined period of time (paragraph [0054], nose teaches schedule coinciding with location).

Consider claim 14. The method of claim 11 wherein automatically updating the communication unit with respect to the buffered updated presence information further comprises automatically updating the communication unit with respect to the buffered updated presence information when either:

- at least a predetermined number of the network presence information updates have been so buffered (paragraph [0033], nose teaches several updates due to location and proximity); and
- at least one item of the buffered updated presence information has been buffered for at least a predetermined period of time (abstract, paragraph [0009], [0021], [0023], Nose teaches updates related to presence; paragraph [0054], nose teaches schedule coinciding with location).

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Consider claim 16. The system of claim 15 wherein the presence detector comprises a Radio Access Network (RAN) (paragraph [0021], Griffin teaches RAN).

Consider claim 17. The system of claim 16 wherein the presence information update requester comprises a network access server (paragraph [0023], Nose teaches server).

Consider claim 18. The system of claim 17 wherein the network access server comprises at least one of a Packet Data Serving Node (PDSN) and a Home Location Register (HLR) (fig. 2, 80, paragraph [0020], griffin teaches core network teaches a packet data serving node for cdma2000 networks).

Consider claim 19. The system of claim 15 wherein the presence server further comprises update means responsive to the mobile communication unit presence information request output for automatically providing updated presence information to the mobile communication unit (abstract, fig. 1, 2, 3, 5, paragraph [0009], [0021], [0034], [0037]).

Consider claim 20. The system of claim 19 wherein the update means further comprises a buffer having at least one recent item of updated presence information (paragraph [0033], Nose teaches PS information stores the following on each user).

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Consider claim 21. The system of claim 20 wherein the update means further comprises decision means for determining when to automatically provide the updated presence information to the mobile communication unit (abstract, paragraph [0033], Nose teaches update presence information to mobile communication unit).

Consider claim 22. The system of claim 21 wherein the decision means determines when to automatically provide the update presence information to the mobile communication unit as a function, at least in part, of at least one of:

- an amount of updated presence information as is contained in the buffer;
  - a duration of time (paragraph [0054], nose teaches schedule coinciding with location);
- and
- a predetermined level of quality of service.

Consider claim 23. The system of claim 22 wherein the duration of time comprises a duration of time as corresponds to an oldest item of updated presence information as is contained in the buffer (paragraph [0028], griffin teaches about updating information).

Consider claim 24. The system of claim 22 wherein the duration of time comprises a duration of time as corresponds to a last transmission of updated presence information to the mobile communication unit (paragraph [0033], Nose teaches database stores the following PS information changeable information according to present state).

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Consider claim 26. The method of claim 25 wherein receiving an indication that a communication unit has become active further comprises receiving the indication from a Radio Access Network (RAN)(fig. 2, paragraph [0019], [0021], griffin teaches wireless network comprises a radio access network).

Consider claim 27. The method of claim 25 wherein automatically sourcing a message further comprises automatically sourcing a message to a presence server paragraph [0037], Nose teaches automatically include priority information also position information which determined if priority information is available).

Consider claim 28. The method of claim 25 wherein receiving an indication that a communication unit has become active further comprises receiving an indication that a wireless communication unit has become active (abstract, paragraph [0009], [0021], [0023], Nose teaches updates related to presence).

Consider claim 30. The method of claim 29 wherein receiving an indication that a communication unit's presence status has changed further comprises receiving the indication from a Radio Access Network (RAN)(fig. 2, paragraph [0019], [0021], griffin teaches wireless network comprises a radio access network).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diego Herrera whose telephone number is (571) 272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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